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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	Siani Lynne PEARSON et al.)	Examiner:	Augustin, Evens J
)		
Serial No.:	10/080,479)	Art Unit:	3621
)		
Filed:	February 22, 2002)	Our Ref:	B-4517 619563-3
)		30006606-2 US
For:	"METHOD AND APPARATUS FOR)		
	ASCERTAINING THE STATUS OF A)	Date:	August 30, 2006
	DATA PROCESSING)		
	ENVIRONMENT")	Re:	<i>Appeal to the Board of Appeals</i>

REPLY BRIEF TO EXAMINER'S ANSWER

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

This is a Reply Brief to Examiner's Answer submitted pursuant to 37 C.F.R. §41.41 in connection with Appellants' appeal from the Final rejection dated October 31, 2005. Appellants hereby request that the Appeal be maintained and submit that this Reply Brief is being timely filed because the Examiner's Answer was mailed on July 14, 2006, and thus the response deadline is September 14, 2006.

STATUS OF CLAIMS

Claims 1 – 10, 12-24 as enclosed with the Appeal Brief dated March 31, 2006 are the subject of this Appeal.

REPLY TO EXAMINER'S ANSWER

1. In the "Argument #1" and "Response # 1" section of the Examiner's Answer (which Appellants assume to be directed to the arguments presented by Appellants with reference to claim 1) the Examiner tries to show that England discloses a "trusted computing device." However, in doing so the Examiner focuses again his attention on OS components such as the DRMOs in England and not on the server 220. Further, the "Argument # 1" heading used by the Examiner also recites "keeping a record of the response." However, in the "Response #1" section, keeping a record of the response by the server 220 is not addressed.

2. In the "Argument#2" and "Response#2" section (which also appears to be directed to the arguments presented by Appellants with reference to claim 1), the Examiner states that "the content provider records the identity of user device, as part of the validation process, before content is sent to the user (column 18, lines 30-33)." However, the passage at lines 30-33 of column 18 talks about a "validation process." Such validation process is performed by a "key vault." (column 18, lines 27-28). However, the key vault is not part of the server 220, as clearly stated at column 18, lines 19-21 of England ("In the exemplary embodiments described here, the keys are stored off-site in a key vault provided by a trusted third party). Therefore, Appellants maintain that claim 1 is patentable and not anticipated by England under 35 USC 102 as stated by the Examiner.

3. In the "Argument#3" and "Response#3" section the Examiner takes issue with the arguments previously presented by Appellants with reference to the feature "*the at least least one trusted computing device is arranged to listen to communications within the data processing environment so as to identify the presence of new devices*" of claim 4. According to the Examiner, the listening and identification features are disclosed at column 9, lines 41-50 of England. However, that passage just talks about a challenge/response process between server 220

and CPU 201. Where is the “listening” disclosed? Where is “the presence of new devices” identified?

4. The “Argument#4” and “Response#4” sections of the Examiner’s answer appear to be directed to the language “*the computing device is arranged to search for a generation identifier within the challenge, to apply response rules to the generation identifier to see if the challenge is still valid, and if it is not to disregard the challenge*” of claim 14 and to the arguments presented by Appellants with reference to that claim. In particular, the Examiner makes reference to a rights manager certificate 210 (column 9, lines 49-51). The Examiner also points out that certificate 210 must be renewed periodically (column 12, lines 39-40). The Examiner also notes that certificate 210 is compared with access predicate 222 (column 10, lines 41-51), which is part of server 220. However, Appellants do not see where the above underlined features of claim 14 are disclosed in the passages mentioned by the Examiner.

5. The “Argument#5” and “Response#5” sections of the Examiner’s answer appear to be directed to the language of claim 20 “*such that any device receiving the challenge can examine the generation identifier in order to establish whether the challenge is directly received from the trusted computing device or whether it has been retransmitted.*” According to the Examiner, as understood by Appellants, such features are embodied by England’s DRMOS as disclosed at column 8, lines 56-65 and column 9, lines 45-47 of England. However, where are the “directly” and “retransmitted” features disclosed?

6. The “Argument#6” and “Response#6” sections of the Examiner’s answer appear to be directed to the language of claim 22 “the user device further analyses the record in accordance with a set of security rules to determine what level of trust can be placed on the integrity of the data processing environment.” In particular, the Examiner makes reference to column 12, lines 25-27 of England. However, that section of England is not related to the server 220, it only relates to the DRMOS 205 and additional components to be eventually loaded by the DRMOS. It should be noted that claim 22 depends on claim 21 which recites a “trusted computing device” that “keeps a record of computing devices that it has identified.” If—as opined by the Examiner—

server 220 in England is the “trusted computing device” of claim 21, where is a “record” kept by server 220 and analysis of that record performed to determine a level of trust?

CONCLUSION

For the extensive reasons advanced in the Appeal Brief and above, Appellants respectfully contend that each claim is patentable. Therefore, reversal of all rejections and allowance of the claims is respectfully solicited.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on

08/30/06

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Respectfully submitted,



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